

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

April Lamontagne and Roland Lamontagne,)	
As Co-Guardians of Kassie-Marie Lamontagne,)	
)	
Plaintiffs,)	
)	
v.)	
)	
United States of America, et al.,)	
)	
Defendants.)	

NOTICE OF REMOVAL OF CIVIL ACTION

The United States of America, by and through its attorney, Jane E. Young, United States Attorney for the District of New Hampshire, and pursuant to Title 42, United States Code, Section 233(c), hereby removes the above-captioned matter from Coos County Superior Court to the United States District Court for the District of New Hampshire for the following reasons:

1. Under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346(b), 2401(b), 2671-80, the United States is liable for personal injury caused by the negligent or wrongful act or omission of a federal employee under circumstances where the United States, if a private person, would be liable to the Plaintiff according to the law of the place where the act or omission occurred. 28 U.S.C. § 1346(b).
2. Coos County Family Health Services (“CCFH”) is an entity that provides primary care, behavioral health, and oral health services to individuals residing in Northern New Hampshire, and receives federal grant money from the Health Services and Resources Administration, a sub-agency of the Department of Health and Human Services (“DHHS”), pursuant to 42 U.S.C. §§ 254b, 254c, and 256a.

Basem Elbrolosy, M.D. (“Dr. Elbrolosy”), is a physician who was employed by CCFH through December 2020, and who provided medical care to Kassie-Marie Lamontagne.

3. Dr. Elbrolosy is a defendant in a complaint now pending in Coos County (New Hampshire) Superior Court, New Hampshire, No. 214-2023-CV-00048, entitled *April Lamontagne and Roland Lamontagne, Jr., as Co-Guardians of Kassie-Marie Lamontagne v. Rashmi Hande, M.D., Akshat Paliwal, M.D., Arthur Ruedigner, D.O., Basem Elbrolosy, M.D., Virtual Radiologic Professionals, L.L.C., Coos North County Radiology, P.L.L.C., d/b/a North Country Radiology, and Androscoggin Valley Hospital*. The action alleges negligent acts or omissions committed by Dr. Elbrolosy during his treatment of Kassie-Marie Lamontagne. See Complaint, attached as Exhibit A.
4. At all times relevant to the allegations contained in the Complaint, CCFH was a grantee of the DHHS, and DHHS had deemed CCFH and its employees, including Dr. Elbrolosy, under the Federally Supported Health Centers Assistance Act, 42 U.S.C. § 233(g) – (n) as employees of the Public Health Service of DHHS for the purpose of medical malpractice coverage under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2671, et seq. See Declaration of Sean M. Flaim, General Attorney, Claims and Employment Law Branch, Department of Health and Human Services (“Flaim Dec.”), attached as Exhibit B.
5. Title 42, United States Code, Section 233(c), provides that, “[u]pon a certification by the Attorney General that the defendant was acting in the scope of his employment [with the Public Health Service] at the time of the incident out of

which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.”

6. The Attorney General of the United States, by Jane E. Young, United States Attorney for the District of New Hampshire, has certified, pursuant to 42 U.S.C. § 233(c), that Dr. Elbrolosy was acting within the scope of his deemed employment as an employee of the United States of America at the time of the incidents alleged in the Complaint for purposes of the Federal Tort Claims Act,. *See* Certification of Jane E. Young, United States Attorney, attached as Exhibit C.

Accordingly, pursuant to 42 U.S.C. § 233(c), the action currently pending in Coos County Superior Court is properly removed to this Court.

Dated: August 17, 2023

/s/ Terry L. Ollila
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